DISTRICT COURT OF APPEAL OF FLORIDA, FIRST DISTRICT

Direct General Ins. Co. v. Vreeman

943 So. 2d 914 (Fla. Dist. Ct. App. 2006) · No. No. 1D05-5625 · Decided December 1, 2006

SUMMARY

The Florida First District Court of Appeal held that Direct General Insurance Company was not required to provide personal injury protection coverage to passengers injured in an Enterprise rental vehicle. The policy did not cover the injured parties or the rental vehicle, and the rental agreement's coverage-shifting language could not create coverage where none existed under the policy.

CASE DETAILS

COURT	District Court of Appeal of Florida, First District
WRITING FOR THE COURT	Hawkes, J.; Allen, J.; Benton, J.
JURISDICTION	Florida
DECIDED	December 1, 2006
DOCKET	No. 1D05-5625
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Direct General appealed an order granting Enterprise Leasing Company summary judgment in a declaratory judgment action concerning which party had primary responsibility for personal injury protection coverage.
STANDARD OF REVIEW	De novo review of the trial court's construction of the insurance policy and Florida Motor Vehicle No-Fault Law, including its grant of summary judgment.
PRECEDENTIAL VALUE	Published opinion; precedential within the Florida First District Court of Appeal subject to later treatment.
PARTIES	Direct General Insurance Company v. Aurea Vreeman, Julio Monsanto, Elizabeth Leandry, Armando Leandry, Enterprise Leasing Company, Larry Rene Schneider

TOPICS

insurance coverage · insurance · statutory interpretation · contract interpretation · appellate procedure

PRACTICE AREAS

insurance · insurance coverage · uninsured motorist

QUESTIONS PRESENTED

1. Whether Direct General's PIP policy extended coverage to Elizabeth and Armando Leandry while they occupied an Enterprise rental vehicle.
2. Whether the primary-coverage provision in the rental car agreement, pursuant to section 627.7263, Florida Statutes, could shift Enterprise's statutory PIP obligation to Direct General when Direct General's policy did not otherwise provide valid and collectible coverage.

HOLDINGS

1. The Leandrys were not entitled to PIP coverage under the policy provision covering the named insured or a relative of the named insured while occupying any motor vehicle because they were neither named insureds nor relatives of a named insured.
2. The Enterprise rental vehicle was not an insured motor vehicle under Direct General's policy because it was owned by Enterprise, was not listed on the policy, and no premium had been charged for it.
3. The rental car agreement could not create valid and collectible PIP coverage where Direct General's policy otherwise provided none, and it therefore could not shift Enterprise's PIP obligation to Direct General.

KEY QUOTATIONS

> *"The coverage shifting language of the rental car agreement cannot serve to create coverage where none otherwise exists."* (943 So. 2d at 917)

> *"The rental car agreement cannot create coverage merely by naming Appellant's policy as primary on the rental car, regardless of the identity or number of additional drivers Enterprise may wish to authorize to drive their vehicles."* (943 So. 2d at 917)

FACTUAL BACKGROUND

Direct General issued Aurea Vreeman a policy providing PIP coverage for a 1996 Saturn and later added another vehicle and identified Julio Monsanto and Christine Vreeman as additional or principal drivers. Monsanto rented a vehicle from Enterprise, listed Direct General's policy number in the rental agreement, and authorized Elizabeth Leandry to drive. Elizabeth and Armando Leandry were injured in an accident while occupying the Enterprise rental vehicle, and Enterprise paid approximately $20,000 for damages. The trial court concluded that Direct General's policy and section 627.7263 made Direct General's PIP coverage primary.

PROCEDURAL HISTORY

Direct General filed a declaratory judgment action seeking a determination whether Enterprise's or Direct General's PIP coverage was primary after Enterprise paid approximately $20,000 to or on behalf of Elizabeth and Armando Leandry. The trial court held that section 627.7263, Florida Statutes, and the rental agreement shifted the primary PIP obligation to Direct General and required reimbursement to Enterprise. The First District reversed and remanded with directions to enter judgment for Direct General.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the summary judgment and remand with directions to enter judgment in favor of Direct General.

CASES CITED

- Progressive Express Ins. Co. v. Devitis, 924 So. 2d 878, 879-880 (Fla. 4th DCA 2006)
- Allstate Ins. Co. v. Morgan, 870 So. 2d 2 (Fla. 2d DCA 2003)
- Am. Auto. Ins. Co. v. Pajor, 316 So. 2d 612 (Fla. 4th DCA 1975)